

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CORNELIUS HAROLD,)	
)	Civil Action
Petitioner)	No. 05-02137
)	
vs.)	
)	
SHANNON, SUPERINTENDENT,)	
COURT OF COMMON PLEAS,)	
PHILADELPHIA, COUNTY, PA)	
THE DISTRICT ATTORNEY OF THE)	
COUNTY OF PHILADELPHIA and)	
THE ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
)	
Respondents)	

O R D E R

NOW, this 12th day of December, 2006, upon consideration of the pro se Petition for Writ of Habeas Corpus, which petition was filed on May 5, 2005; upon consideration of Petitioner's Brief in Support of Petition for Writ of Habeas Corpus, filed on June 7, 2005; upon consideration of the Petitioner's Amendment to Petitioner's Petition for Writ of Habeas Corpus Pursuant to Federal Rules of Civil Procedure, Rule 15(A), filed on March 22, 2006;¹ upon consideration of the Response to Petition for Writ of Habeas Corpus, filed on June 16, 2006; upon consideration of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter, filed on June 27, 2006; upon consideration of Appellant's Objection to

1. On March 22, 2006 by Order of the undersigned, Petitioner's Amendment to Petitioner's Petition for Writ of Habeas Corpus Pursuant to Federal Rules of Civil Procedure, Rule 15(A) was filed effective February 15, 2006.

Magistrate's Report and Recommendation, which objection was filed on July 10, 2006 and July 11, 2006;² upon consideration of Petitioner's Reply to Respondents' Answer to Petition for Writ of Habeas Corpus, filed on July 11, 2006; it appearing that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation, which are articulated in Petitioner's Reply to Respondents' Answer to Petition for Writ of Habeas Corpus, are a restatement of issues disposed of by Magistrate Judge Rueter's Report and Recommendation; it further appearing after de novo review of this matter that Magistrate Judge Rueter's Report and Recommendation correctly determined the legal and factual issues presented in the petition for habeas corpus relief,

IT IS ORDERED that Magistrate Judge Rueter's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation are overruled.³

2. A review of documents 16 and 18, titled Appellant's Objection to Magistrate's Report and Recommendation and filed July 10, 2006 and July 11, 2006 respectively, reveals that the documents are identical. Each document objects to Magistrate Rueter's Report and Recommendation on the ground that Magistrate Rueter did not consider Petitioner's Reply to Respondents' Answer to Petition for Writ of Habeas Corpus.

3. When objections are filed to a magistrate judge's report and recommendation, we are required to make a de novo determination of those portions of the report, findings or recommendations made by the magistrate judge to which there are objections. 28 U.S.C. § 636(b)(1); Rule 72.1(IV)(b) of the Rules of Civil Procedure for the United States District Court for the Eastern District of Pennsylvania. Furthermore, district judges have wide latitude regarding how they treat recommendations of the magistrate judge.

(Footnote 1 continued):

IT IS FURTHER ORDERED that the pro se petition for habeas corpus relief is dismissed without a hearing.

IT IS FURTHER ORDERED that because petitioner fails to demonstrate denial of a constitutional right, a certificate of appealability is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge

(Continuation of footnote 1):

See United States v. Raddatz, 447 U.S. 667, 100 S.Ct. 2406, 65 L.Ed.2d 424 (1980). Indeed, by providing for a de novo determination, rather than a de novo hearing, Congress intended to permit a district judge, in the exercise of the court's sound discretion, the option of placing whatever reliance the court chooses to place on the magistrate judge's proposed findings and conclusions. We may accept, reject or modify, in whole or in part any of the findings or recommendations made by the magistrate judge. Raddatz, supra.

As noted above, we conclude that petitioner's objections to Magistrate Judge Rueter's Report and Recommendation are nothing more than a restatement of the underlying claims contained in his petition for habeas corpus. Moreover, upon review of the Report and Recommendation, together with de novo review of this matter, we conclude that the Report and Recommendation correctly determines the legal issues raised by petitioner.

Accordingly, we approve and adopt Magistrate Judge Rueter's Report and Recommendation and overrule petitioner's objections to the Report and Recommendation.